

2003/2004 ALTERNATIVE PAYMENT PROGRAM
LANGUAGE CHANGES TO THE FT&CS
(G2AP)

Section 1, "Definition" (p.2) shall be amended as follows:

~~"Earned" means net reimbursable program costs of which at least eighty percent (80%) must be payments for direct services, no more than twenty percent (20%) may be for support services and administrative costs together and no more than fifteen percent (15%) may be for administrative costs alone. (Note: this language is pursuant to Budget Act language limiting administration and support to no more than 20 percent of direct services costs)."~~

"Earned" means net reimbursable program costs of which at least eighty-one percent (81%) must be payments for direct services, no more than nineteen percent (19%) may be for support services and administrative costs together and no more than fifteen percent (15%) may be for administrative costs alone.

Section II, General Provisions, Payment to Providers (p.5) shall be amended as follows:

~~Contractors shall pay each provider the same rate(s) the provider charges nonsubsidized families not to exceed 1.5 standard deviations from the mean market rate established for the type of care provided as established by the most recent "Regional Market Rate Survey of California Child Care Providers."~~

~~For providers that do not serve nonsubsidized children, the contractor shall pay a rate that is within 1.5 standard deviations of the mean market rate for the type of care provided as established by the most recent "Regional Market Rate Survey of California Child Care Providers."~~

Contractors shall pay each provider the same rate(s) the provider charges nonsubsidized families for the appropriate category, but not to exceed the applicable market rate ceilings as published by the California Department of Education pursuant to the most recent "Regional Market Rate Survey of California Child Care Providers."

For providers that do not serve nonsubsidized children, the contractor shall pay a rate that is within the market rate ceilings for the type of care provided as published by the California Department of Education pursuant to the most recent "Regional Market Rate Survey of California Child Care Providers and in accordance with current regulations".

Section II.0, General Provisions, Conflict of Interest (p.7) shall be amended as follows:

For any transaction to which the contractor is a party and the other party is: (a) an officer or employee of the contractor or of an organization having financial interest in the contractor; or (b) a partner or controlling stockholder or an organization having a financial interest in the contractor; or (c) a family member of a person having a financial interest in the contractor, the transaction(s) shall be fair and reasonable and conducted at arm's length.

Based on corporate law (Corporations Code sections 310, 5233-5234, 7233 and 9243 as applicable) the general rules that would be followed to ensure that transactions are conducted "at arm's length" include: (1) prior to consummating the transaction, the governing body should authorize or approve the transaction in good faith and the board should require the interested party, or parties, to make full disclosure to the board both in writing and during the board meeting where the transaction is being discussed and (2) all parties having a financial interest in the transaction should refrain from voting on the transaction and it should be so noted in the board minutes.

~~Rental costs under less than arms length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less than arms length lease is one under which one party to the lease agreement is able to control or substantially influence the action of the other. Such lease include, but are not limited, to those between (i) divisions of an organization; (ii) organizations under common control through common officers, directors, or members; and (iii) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. Any transaction described in this paragraph~~

~~shall be disclosed by the auditor in the notes to the financial statement in the annual audit.~~

If the transaction involves the renting of property, either land or buildings, owned by affiliated organizations, officers or other key personnel of the contractor or their families, the board of directors shall request the interested party to obtain a "fair market rental estimate" from an independent appraiser. If the contractor has no board or is a sole proprietor, the requirement for a "fair market rental estimate" shall also apply. The contractor has the burden of supporting the reasonableness of rental costs. If the property is owned by the contractor, rental costs are not reimbursable and costs may be claimed only as depreciation or use allowance. Any transaction described in this paragraph shall be disclosed by the auditor in the notes to the financial statement in the annual audit.

Rental costs for equipment owned by affiliated organizations, officers or other key personnel of the contractor or their families are allowable only as use or depreciation allowance.

Section 1, Program Requirement, Definitions (p.27) shall be amended as follows:

~~"Co-payment" means any usual and customary provider charges above 1.5 standard deviations from the mean market rate for the type of care provided which are paid by the parent directly to the provider."~~

"Co-payment" means any usual and customary provider charges that exceed the maximum subsidy amount. The family shall be responsible to pay the provider the difference between the provider's rate and the maximum subsidy amount. The contractor shall not be responsible for collecting the family's co-payment.

Section II.A, Eligibility and Need Criteria and Documentation, General Requirements (p.30, second paragraph) shall be amended as follows:

Children who have reached their ~~fourteenth~~ (14th) thirteenth (13th) birthday are ineligible for subsidized services except that children with exceptional needs may be served through age twenty-one (21). Children with exceptional needs shall also meet the criteria for that age group specified in Education Code Section 56026 and

Section V, Fee Schedule, Fee Assessment (p. 36) shall be as follows:

A. Fee Assessment

Contractors shall use a fee schedule prepared and issued by the CDD. The contractor shall utilize the following factors in determining the fee to be assessed for each family: (1) the adjusted monthly family income and (2) family size. The fee shall be assessed and collected based on the family's child who is enrolled for the longest period. The fee assessed and collected shall be the least of the fee indicated on the fee schedule or the actual costs of services ~~or 1.5 standard deviations from the mean market rate~~ but not exceed the applicable regional market rate ceiling for the type of care provided. If the parent(s) works on a fluctuating schedule, the fee may be estimated and adjusted the following month. If the family's children are served in both federal and state programs, the fee must be pro-rated to each program based on the cost of care each child receives.

The contractor shall maintain a record of each family's fee assessment, the effective date(s) of each fee increase or decrease, the dates and amounts of fees collected and any amounts, which are delinquent. The contractor shall explain to the parent(s) the contractor's policies regarding fee assessment and collection and the possible consequences for delinquent payment of fees.

B. Co-Payments

If a parent chooses a provider with a usual and customary rate exceeding the applicable regional market rate ceiling established by statute ~~1.5 standard deviations above the mean market rate~~ for the type of care provided, the parent may receive services from that provider only if the parent pays the difference between the regional market rate ~~1.5 standard deviations~~ and the provider's rate. The co-payment shall be paid directly by the parent to the provider and shall not be accounted for by the contractor.

Section VII, Information on Contractor Policies (p. 38) shall be amended as follows:

The contractor shall develop and implement a written policy statement which shall include information regarding:

- A. A description of the program's purpose, design, and organization framework
- B. Family eligibility requirements
- C. Conditions for participation
- D. Reimbursement of providers not to exceed the applicable regional market rate ~~which shall include a limitation of 1.5 standard deviations from the mean market rate~~ for the type of care provided
- E. Requirements for provider participation
- F. Range of services available including licensed child care providers or child care providers who are, by law, not required to be licensed
- G. Parent fee collection policy and procedures including direct payment of fees to the provider, if allowable
- H. Language specifying that payments will not be made for services when care is provided by parents, legal guardians or members of the assistance unit.

In order to ensure that the payment an in-home provider receives is equivalent to minimum wage, contractors may establish a policy requiring a minimum number of children in care before in-home service can be provided.

The contractor shall notify the county welfare department of the actions of the family that violated the contractor's policy to determine what action may be taken.